

SPRING CREEK / COW CREEK SANITARY DISTRICT
MEETING MINUTES
MONTHLY MEETING
Wednesday, April 20, 2022

The regular monthly meeting of the Spring Creek / Cow Creek Sanitary District was held at the Dwane Russell residence, 213 Shoreline Street, Pierre SD on Wednesday, April 20, 2022. Chairman Russell called the meeting to order at 7:02 p.m.

Chairmen Russell, Wiseman and Schuh, Clerk Anderson and Superintendent Zuber were in attendance in person. Also present were 23 residents of the District and one guest. Legal Counsel Cody Miller and 2 residents attended via videoconference.

Russell asked for approval of the Agenda as presented. Clerk Anderson asked for last-minute corrections to be noted on the Agenda. Anderson stated that based on Attorney communications late in the day Ordinance No. 4 and Ordinance No. 5 are combined into one Ordinance. Ordinance No. 6 will be renumbered to Ordinance No. 5. And, Agenda items 12 & 13 need to be combined into Agenda item 12. The following items will follow consecutively. Schuh made a motion to approve the Agenda with changes. Wiseman seconded. All voted in favor. Motion carried.

Russell asked the Board to declare any Conflicts of Interest. No conflicts were declared.

Russell made a motion to approve the minutes from the March monthly meeting. Schuh seconded. All voted in favor. Motion carried.

Wiseman made a motion to approve the minutes from the April 11, 2022 Special Meeting. Schuh seconded. All voted in favor. Motion carried.

Zuber presented his Superintendent's report to the Board. He reported the daily usage for March was approximately 27,000 gallons, he received close to 20 new hookup applications since our last meeting, with some of the meters already installed. He also asked the Board to consider a Hydrant Meter purchase so that tanks being filled from hydrants can be charged accordingly.

Chairman Russell opened the Continuation of Public Hearing on the Proposed Exclusion of Real Property at 7:15 p.m. Mr. Utech's attorney, Stacy Hegge began the Continuation by stating it is their understanding from listening to previous discussions and public comments that the Board was not prepared to grant a full exclusion of real property to Mr. Utech. Mr. Hegge introduced a proposal for Partial Exclusion of Real Property to encompass ONLY the area know as Codger's Castaway (formerly Oahe Speedway). She stated that we all know that additional water is needed and Mr. Utech has an agreement in place with Mid-Dakota RWS to provide the additional water. They would like to work out an agreement with the District to keep the rest of the property included in the original proposal within the District.

Ms. Hegge presented a Revised Resolution for the Proposed Exclusion of Real Property to the Board for consideration.

Wiseman addressed the revised resolution and the rules behind the revision. Is this considered a new application, subject to public hearing publications? He also stated this is a new proposal that had not been discussed yet. The water available to Utech at Codger's Castaway is also available to the District, per Scott at Mid Dakota. Water will be stretched thin in the entire area due to drought conditions.

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Ms. Hegge noted that since the legal descriptions did not change in the revised resolution, she felt the revision did not warrant a new public hearing. She deferred to Attorney Miller for confirmation. Regarding Mid-Dakota's water supply, has the District made plans to increase capacity and incur those additional costs?

Wiseman responded that the District would make plans to increase capacity, but without plans from Mr. Utech, it is impossible to go to Mid-Dakota and ask for increased capacity. The increased capacity is billed monthly, whether it is used or not. He also stated that the Board has been asking for plans on this development for four months and without those plans, the Board cannot move forward with the Proposed Exclusion.

Russell interjected that he also feels the Board needs more information from Mr. Utech in order to move forward. Since the Trustees cannot talk to each other outside of monthly meetings, it is difficult to make decisions without full knowledge of each Trustee's conversations since the prior meeting.

Ms. Hegge responded that the intention of the April 11 meeting was to bring the Board together to discuss ideas that would satisfy both parties.

Wiseman interjected that the Board has been hearing the same information at every meeting. The Board is looking for ideas from Mr. Utech. It is not the Board's job to bring ideas to the table as the Board is not the developer. The Board has ordinances in place for developers to work with their engineers to get plans to present to the Board. Since the Board has not seen the engineered plans for this development, we cannot do anything. He also stated that we have been asking for this at every meeting and cannot continue to drag this along.

Wiseman asked for public comment regarding this issue. One resident came forward to state that based on the discussions held at the April 11th meeting, he fully expected to see a set of plans at this meeting. He understood that both parties agreed on April 11th that the Board needed some direction from Mr. Utech in order to make a decision at this meeting.

Ms. Hegge responded to the public comment that the issue with developing engineered plans is that there is insufficient water source, as per the Bartlett & West report.

Wiseman rebutted that after multiple discussions with Mr. Utech, he received Utech's proposal, which he presented to the Board. The proposal stated the known facts that the District's Sewer Pond encompasses 7.2 acres of a 10-acre patch of land. The pond is only five feet deep and it needs to be deeper. The options are 1: Remove the north cell and install a Bio-Clere system in that area and remove the divider cell; or 2: Remove both dividers in the pond and leave the depth as is and acquire land for Bio-Clere units. Wiseman told the Board that he reviewed the Bio-Clere system with Utech and thought this was something the Board should look into in the near future.

Mr. Utech's proposed offer for his developments is as follows: 1. He provides all sewer system using Bio-Clere. 2. He provides all water capacity, including an expandable round tank. 3. He provides another 100 GPM water from Mid-Dakota.

This equates to approximately \$6 Million in expansion expenses to Mr. Utech and his developments. In return for his investment, he asks the Board to waive all hook-up fees or other kinds of fees to his development. Mr. Utech interjected a clarification that the comment regarding "other kinds of fees" does not include water & sewer usage costs. He clarified it is his intent to pay usage fees, just asks for a waiver on hook-up fees and other startup costs.

Mr. Wiseman noted this was an item for negotiation. This offer makes sense on both sides, yet the Board would still need plans to move forward.

Ms. Hegge asked for confirmation that the Board would not consider the Exclusion for Real Property without engineered plans. Russell clarified that to be the case.

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Russell asked for a motion to table this until the Board has more information. Wiseman responded that the Board has tabled this enough. Motion failed for lack of second.

Wiseman made a motion to move into executive session under SDCL 1-25-2(3) to consult with legal counsel. Schuh seconded. All voted in favor. Moved to executive session at 7:31 p.m.

Russell made a motion to end the executive session and return to regular session at 7:43 p.m. Schuh seconded. All voted in favor. Motion carried.

Wiseman made a motion to deny the Proposed Exclusion of Real Property. Schuh seconded. All voted in favor. Motion carried.

Wiseman presented the treasurer's report. He stated that the new hookup fees received to date have helped the bottom line. He also noted that the March financials are showing prepayments on accounts receivables due to the volume of new hookups received. The checks have been deposited, but the invoicing will not be generated until April 10th. Wiseman also noted that he and Zuber would further research the cost of the Hydrant Meter purchase, but currently the cost would be approximately \$1300. Russell made a motion to approve the treasurer's report. Schuh seconded. All voted in favor. Motion carried.

Clerk Anderson presented the monthly Accounts Payable to the Board. These include: Anderson Nill & Associates - \$2,294.18; AT&T Mobility - \$85.27; Bartlett & West - \$17,129.50; Capital Journal - \$104.53; Lammers, Kliebacker, et al - \$4,522.00; Mid Dakota Rural Water - \$4,515.88; Midcontinent Communications - \$39.92; Oahe Electric - \$617.81; Oahe Glass - \$149.42; South Dakota Public Health Lab - \$15.00; The Onida Watchman - \$74.52; Forrest Zuber - \$189.14. Russell made a motion to approve the bills as presented. Wiseman seconded. All voted in favor. Motion carried.

Wiseman announced to the Board that the District has received approval from the SD DANR for the Water Storage and the Sewer Improvement projects. The Water Tower project was awarded an 80% Grant, meaning that of the \$2,220,000 project, the District would only need to borrow \$444,000. He noted that there would be some rate changes to meet the funding criteria, but those would be a few months out. He is hoping to go to bid on these projects sometime in July. On the Sewer project, the District was awarded a 30% Grant, meaning that of the \$1,232,860 total cost, the District would need to borrow \$863,002. As with the water project, the sewer project will require some rate adjustments, but we do not know what those look like yet. Once we receive more information from the funding sources, we can better inform the residents. Russell stated that the District has to follow the same rules as all other entities in the state in regards to the rate structure requirements when utilizing the grants and loans.

Wiseman also reported the Archeological Study has started this morning. He was able to visit with them and reported that the study was more extensive than he anticipated. They were in the process of drilling holes all along Spring Creek Drive, as well as the tower site. The process involved drilling 1.5-foot holes in the ground about 20 inches deep. They removed the contents and sifted it out. They anticipated the project taking 2-3 weeks, depending on the weather, plus another week to prepare the report. The lead on the project stated she hoped to have everything completed by the end of May. Once this step is done, the District can move forward to working with the Corps of Engineers and the SD Game Fish & Parks.

It was moved by Russell and seconded by Schuh that ORDINANCE NO. 4, REGULATION OF WATER USE, an Ordinance of the Spring Creek / Cow Creek Sanitary District to REPEAL ORDINANCES NO. 2020-1, 2021-1 AND 2022-1 AND RE-ENACT THEM ESTABLISHING REGULATIONS RELATING TO WATER USE, WATER RATES, FEES, REGULATIONS, AND PENALTIES FOR VIOLATIONS THEREOF be given a FIRST READING. All voted in favor. Motion carried.

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It was moved by Schuh and seconded by Russell that ORDINANCE NO. 5, REGULATION OF SEWER USE, an Ordinance of the Spring Creek / Cow Creek Sanitary District to REPEAL ORDINANCES NO. 2020-2 AND 2021-2 AND RE-ENACT THEM REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE WASTEWATER DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEMS AND PROVIDING USER RATES, AND PENALTIES FOR VIOLATIONS THEREOF, be given a FIRST reading. All voted in favor. Motion carried.

Mr. Peterson questioned whether his unsold lots would be subject to the new rates, or could they be grandfathered in under the old rates. Wiseman addressed Mr. Peterson regarding the new ordinances as they were just given a first reading, stating that if you already have a water hookup already in place. The new ordinances are only effective for new hookups and new construction. If you have a platted lot, you can purchase a new hookup before the Ordinances take effect and be granted a 12-month completion date. If you have unplatted lots, no sewer or water hookup will be allowed at this time.

Mr. Peterson also expressed concerns as he is currently in the process of developing plats with Sully County. He asked if and when he could work with the District on water and sewer needs. Wiseman responded that his development was no different than the development proposed by Utech. The Board would need a set of plans in order to identify the needs of the development before it could act on supplying those needs. Until the plats are approved, the District cannot act in this regard.

Ms. Hegge asked for the Board to add to its record all documents relative to the Proposal for Exclusion of Real Property, including the initial petition, the initial map and the initial proposed resolution, the notice of hearing, the Bartlett & West final report, the correspondence and attached exhibits dated Feb. 24, 2022, as well as the new map and revised proposal for exclusion as submitted this evening. Attorney Miller stated that the majority of those documents are already on the record, but he concurs that the Board will record all documents as requested.

Russell announced that the Trustee election will be held on July 5, 2022. Petitions can be filed between May 26 and June 15, 2022. If anyone is interested in running for the open Board seat, you can pick up a petition at the Clerk's office, located at 1517 N. Harrison Avenue in Pierre. Russell also reminded the membership that authorized signers have to residents of the Sanitary District and registered to vote in either Hughes or Sully County.

Chairman Russell opened the floor to public comment. One resident came forward to ask if the District will allow absentee voting since the election will be held immediately following the July 4th holiday. Chairman Russell indicated that we can allow absentee voting, but we will have to work out the details of that process. Clerk Anderson reported that all details of the election will be available on the website prior to the election.

Being no further business, Wiseman made a motion to adjourn the meeting at 8:25 p.m. Schuh seconded. All voted in favor. Motion carried.


Dwane Russell, Board Chairman

ATTEST:


Jennifer Anderson, Clerk